

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ZACHARY ANDREW
LAMBERTZ, DAREN ORLANDO MARTIN, and
ALEXIS MARIE MARTIN, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JULIE LAMBERTZ,

Respondent-Appellant,

and

ORLANDO DWAYNE MARTIN,

Respondent.

UNPUBLISHED
August 11, 2005

No. 258756
Macomb Circuit Court
Family Division
LC No. 03-054381-NA

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FAMILY INDEPENDENCE AGENCY,

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v

ORLANDO DWAYNE MARTIN,

Respondent-Appellant.

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Macomb Circuit Court
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Before: Zahra, P.J., and Gage and Murray, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (g) (failure to provide proper care and custody), and (j) (child will be harmed if returned to parent). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err by finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). The principal condition leading to the court's assumption of jurisdiction over the minor children was the unsafe and unsanitary condition of the home, which the protective services worker described as the worst he had seen in years. Although the overall condition of the home had improved by the time of the termination trial, the evidence indicated that the home remained unsuitable for the children, as it lacked electrical power, had one bedroom so cluttered it could not be entered, and the floors were filthy. The foster care worker testified that each inspection revealed that along with some progress there was additional deterioration. Respondents' resolve to maintain any improvements appeared weak in light of one of their own exhibits, a photograph of new carpeting adjacent to a floor that continued to be filthy. Respondents' apparent lack of understanding of adequate housing conditions for the three minor children is also shown by the fact that each of three home studies was requested by respondents, yet the home had such glaring defects as a door that was open to the weather, holes in the floor, backed up sewage in the bathtub and toilet, and lack of utilities. Therefore, it is evident that the conditions of adjudication continue to exist and respondents have failed to provide proper care and custody to the children. Thus, the trial court did not clearly err by finding that these statutory grounds for termination were established.

The evidence further indicated that respondent father was physically abusive to Zachary, who reported being struck in the face, stomach, and back and placed in a trunk by respondent father. Although respondent father is not the biological father of Zachary, his treatment of this child is probative of how he is likely to treat his own children, Daren and Alexis.¹ *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001); *In re LaFlure*, 48 Mich App 377, 392; 210 NW2d 482 (1973). Moreover, respondent mother continues to be unemployed and has not held a job in eight years. Thus, it is reasonable to presume that she will remain financially dependent on respondent father, so that the likelihood of physical abuse of the children by respondent father would also continue if the children were returned to respondents. Therefore, the trial court did not clearly err by finding that the children will be harmed if returned to respondents.

Finally, the trial court did not clearly err by finding that termination was not contrary to the best interests of the children. MCL 712A.19b(5). Zachary displayed a number of problems

¹ Respondent father's reported striking of the minor child Zachary was also a condition of adjudication. Throughout the thirteen-month pendency of this matter, respondent father did not address anger management through classes or individual counseling, although the parent agency agreement required him to do so. While respondent father's failure to take anger management classes may be partially attributable to the agency's loss of funding during the pendency of this matter, his failure to engage in counseling despite two referrals supplies ample evidence that his anger problems will not be addressed in the reasonable future.

when he was removed from the care of respondents, including sexualized behavior, and defiance and hitting at school that resulted in his expulsion. He has been doing well in foster care, as have Daren and Alexis. Respondents have demonstrated no ability to maintain a minimally habitable environment for the children. Respondent father has failed to address his anger problem through anger management classes or therapy. Under these circumstances, the trial court did not clearly err by finding that termination of respondents' parental rights was not contrary to the best interests of the children.

Affirmed.

/s/ Brian K. Zahra

/s/ Hilda R. Gage

/s/ Christopher M. Murray